

Public Law 96-251
96th Congress

An Act

May 26, 1980

[S. 668]

To permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049).

Cow Creek Band
of Umpqua
Indian Tribe,
filing of claims.

25 USC 70k.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of sections 2401 and 2501 of title 28, United States Code, and of section 12 of the Act entitled "An Act to create an Indian Claims Commission to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (25 U.S.C. 70a), hereinafter in this Act referred to as the "Act of August 13, 1946", the United States Court of Claims shall have jurisdiction to consider any claim filed by the Cow Creek Band of the Umpqua Tribe of Indians within five years after the date of the enactment of this Act respecting any matter for which a claim could have been filed by such band with the Indian Claims Commission under section 2 of the Act of August 13, 1946, as amended by the Act of October 27, 1974 (25 U.S.C. 70a).

SEC. 2. In determining the amount to be awarded in any action under this Act, the Court of Claims shall make appropriate deductions for all payments made by the United States on any claim for which an action is brought pursuant to this Act, and for all other offsets, counterclaims, and demands that would be permitted to be made by the Indian Claims Commission under the third paragraph of section 2 of the Act of August 13, 1946, as amended by the Act of October 27, 1974 (25 U.S.C. 70a), if the claim were to be determined by such Commission.

Costs of suit and
attorneys' fees.

SEC. 3. The Court of Claims may award to any prevailing party, other than the United States, in any action under this Act costs of suit and reasonable attorneys' fees. The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the court or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the court at such amount as the court, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, plus all reasonable expenses incurred in the prosecution of the claim, but the amount so fixed by the court, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in such case.

Definition.

SEC. 4. (a) For purposes of this Act, the term "Cow Creek Band of the Umpqua Tribe of Indians" means the group of persons descended from persons considered members of such band for purposes of the treaty entered into between such band and the United States on September 19, 1853 (10 Stat. 1027), as ratified by the Senate on April 12, 1854, except that such group shall not include any person, or the descendent of any person, who shared in the distribution of funds

under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Klamath Tribe of Indians located in the State of Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 564 et seq.), or under the Act entitled "An Act to provide for the termination of Federal supervision over the property of certain tribes and bands of Indians located in western Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 691 et seq.).

(b) In any proceeding under this Act, the Council of the Cow Creek Band of the Umpqua Tribe of Indians, a nonprofit corporation incorporated in the State of Oregon, shall be considered to be the governing body of such band.

SEC. 5. The provisions of the Act of November 4, 1963 (77 Stat. 301), shall be applicable with respect to any claim filed by the Cow Creek Band of the Umpqua Tribe of Indians with the Court of Claims pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission.

25 USC 70n-1.

Approved May 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-910 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-397 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Nov. 7, considered and passed Senate.

Vol. 126 (1980): May 12, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 22 (1980): May 27, Presidential statement.